



RA A. JACKSON  
COMMISSIONER

*The Commonwealth of Massachusetts*  
*Department of Revenue*  
*Leverett Saltonstall Building*  
*100 Cambridge Street, Boston 02204*

March 20, 1985

You inquire whether the purchase in Connecticut of a portable crushing plant and the needed accessories and parts by ("Company"), a Massachusetts construction business, is subject to the Massachusetts sales and use taxes. You state that no sales tax was paid in Connecticut on the purchase by the Company. You do not state to what use the Company put the crushing plant.

Massachusetts General Laws Chapter 64H, Section 2 imposes a five percent sales tax on all retail sales of tangible personal property in Massachusetts. Chapter 64I, Section 2 imposes a complementary five percent use tax on the storage, use, or other consumption in Massachusetts of tangible personal property purchased for storage, use, or other consumption in Massachusetts.

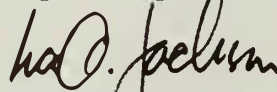
The Massachusetts use tax is not applicable to those sales upon which the sales tax has already been collected under Chapter 64H. (G.L. c. 64I, § 7(a)). Chapter 64I, Section 7(c) also exempts from the use tax sales upon which the purchaser has already paid a tax in another state, provided that the state to which the tax was paid extends the same treatment to sales made in Massachusetts. Where the tax imposed by Chapter 64I is higher than that of the state of purchase, the Massachusetts use tax shall apply only to the extent of the difference between the two rates. (G.L. c. 64I, § 7(c)).

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Section 6(s) of Chapter 64H exempts from the sales tax sales of machinery and replacement parts used directly and exclusively in an industrial plant in the actual manufacture, conversion, or processing of tangible personal property to be sold. Chapter 64I, Section 7(b) exempts from the use tax all purchases exempt under Chapter 64H.

The Company purchased the portable crushing plant for use in Massachusetts, and no sales tax was paid on the purchase. Therefore, the Company must pay the full amount of the Massachusetts use tax on its purchase of equipment, unless the purchase meets the requirements of Chapter 64H, Section 6(s).

Very truly yours,



Commissioner of Revenue

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